

July 7, 1939.

Mr. Chas. Rogers,  
County Attorney,  
Safford, Arizona.

**LAW LIBRARY**  
**ARIZONA ATTORNEY GENERAL**

Dear Mr. Rogers:

We have your letter of June 8th wherein you ask our opinion on the following questions:

" Under Paragraph 4671 is the shooting of dice a crime? Another question is: Under this set of facts and in view of Par. 4685, could we properly prosecute these individuals for gambling when the only evidence we have is that which they gave in the former case, under oath."

As to the first question you propound you are advised that Section 4671 of our Code provides that every person playing in certain games, whether the same is played for money, checks, credits or any other representatives of value, is guilty of a misdemeanor. If the parties in question were shooting dice for money, checks, credits or any other representatives of value, then they could be prosecuted under said Section 4671, or if persons were playing at a game wherein one of the parties banked the game, (that is, the party paid all bets and took all losings) they could be prosecuted under Section 4673.

As to your second question, we are of the opinion that if the parties voluntarily testified to a gambling transaction in a case not concerning a violation of the gaming laws, they would not be entitled to the immunity afforded by Section 4685. We believe this section was only intended to permit the prosecution to use only one of the participants of the game in a prosecution of a gambling case, and then give the witness immunity for giving testimony.

If you can make sufficient proof to satisfy a jury or the Court that the parties involved were shooting dice (craps) for money, checks, credits or other representatives of value, then you would have a case. If you rely on the testimony of a participant of the game, the testimony of such witness would have to be corroborated under Section 5055, Revised Code of Arizona, 1928.

Very truly yours,

JOE CONWAY,  
Attorney General.

EARL ANDERSON, ✓  
Special Assistant Attorney General.